

## REMARKS

The present amendment is in response to the Office Action mailed August 27, 2001 in the above-referenced case, made Final. Claims 1-4, and 17-22 are standing for examination. Claims 1, 18-20 and 22 are rejected under 35 U.S.C. 102 (b) as being anticipated by Sprague (U.S. Patent 6,072,645) hereinafter Sprague. Claim 21 is rejected under 35 U.S.C. as being unpatentable over Sprague in view of Ichinose ('569) hereinafter Ichinose. Claims 2-4, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sprague in view of Moe ('430) hereinafter Moe.

The applicant has carefully studied the art of Sprague, Ichinose, Moe, and the Examiner's remarks. Applicant herein presents clear arguments to more particularly point out the subject matter regarded as patentable by the applicant distinguishing unarguably over the prior art presented by the Examiner.

Regarding claim 1, the Examiner states that Sprague discloses an apparatus for retroactive recording using memory of past information in a data storage buffer having an input port, at least one recording mechanism associated with at least one data store, a user input on the user interface for controlling the functions of data transfer, store, and playback of recorded data, and a user input on the user interface for inserting a flag set into the recorded data, the flag set searchable and usable as indicia for beginning and/or ending a playback session or for selecting a data portion of the recorded data for permanent storage (col. 3, lines 23-35 and col. 4, lines 45-64 and col. 6, lines 9-59).

Applicant respectfully traverses the Examiner's above interpretation of the art of Sprague regarding flag sets as claimed in applicant's invention. Applicant's claim 1 specifically recites a user input on the user interface for inserting a flag-set into the recorded media, the flag-set searchable and usable as indicia for

beginning a playback session of recorded media at a desired point in the recording sequence the playback ending at a desired point in the recording sequence or for selecting a media portion of the recorded media for permanent storage.

Applicant argues that the control buttons of the recording device described in the Examiner's referenced portion of Sprague col. 3, lines 23-35 are not capable of setting a flag set as claimed in applicant's invention. The control buttons include a recording start control button 14, and retroactive recording start control buttons 16, 18, 20, 22, 24. Column 4, lines 45-64 and Col. 6, lines 9-59 of Sprague specifically teach that retroactive recording mode is entered by pressing one of the retroactive recording control buttons, START A, 16, START B, 18 or START C, 20. By way of example, START A represents 1 minute, START B represents 3 minutes and START C represents 5 minutes. For START A, FIFO 84 is clocked out 86B so that FIFO 84 holds the past 1 minute of audio. The other 4 minutes of compressed digital audio data is discarded. For START B, FIFO 84 is clocked out 86B so that FIFO 84 holds the past 3 minutes of audio. The other 2 minutes of compressed digital audio data is discarded. For START C (5 minutes of retroactive recording), it is not necessary to clock and discard any data FIFO 84.

Applicant argues that because the remainder of the minutes not set by the START button are discarded, searching, as claimed, is not accomplished or necessary in Sprague. Sprague clearly teaches that the recording is clocked, which does not require the use of flags. Flags are not set in Sprague in relation to portions in the recording regarding subject matter one may wish to play back or save. Sprague teaches a simplistic way of clocking 5 minutes of recording and salvaging a portion of the recording from a selection of a clocked time to the present, or end of the recording.

Applicant argues that Sprague's retroactive recording control buttons are not capable of setting a flag set as claimed, wherein the flag set is usable as

indicia for beginning a playback at a desired point and ending the media portion at a desired point in the recording. Applicant argues that because Sprague teaches only buttons for going back 1, 3, or 5 minutes in the recording, the ending point for playback is always the end of the entire recording portion (or the present point in recording). Applicant's point is that one may not set a second flag in Sprague at a desired point to pull a portion from within a recording for playback or permanent storage.

Column 6, lines 9-59 (Fig. 4) of Sprague teaches a selection switch 54, when set to position T0 by controller 50, selects the compressed digital audio data samples at the output of digital processing circuit 40 which represent present audio in real time. In any of the other positions T1, T2 or TN, selection switch 54 selects a tap point accessing the compressed digital audio data samples at the output of one of memory 42, memory 44 or memory 46, which output represents past stored audio information, also in real time. The selected tap point, (TN in the general case), is selected by switch 54 and coupled to D/A converter 89 which provides analog output to the recording head input 90 for recordation on the audio tape.

In operation, Sprague teaches that the compressed digital audio data samples at the output of digital processing circuit 40 are stored in memories 42, 44, and 46. After memories 42, 44, 46 are full, the arrival of each new additional compressed digital audio data sample at the first memory 42 causes the oldest stored compressed digital audio data sample in memory 46, to shift beyond the data storage capacity of memory 46 and be lost. Thus, memories 42, 44, 46 hold compressed digital audio data samples representing past audio reaching the tape recorder microphone 12. By way of example, the memories 42, 44 and 46 may each hold a 1 minute segment of past audio.

When any of the start buttons 14, 16, 18, 48 are pressed, the controller 50 starts the tape transport 34 via control line 56 and the tape recorder begins

recording audio at normal speed. To record present real time audio, start button 14 is pressed, and the controller 80 conditions control switch 54 to direct input digital data from the digital processing circuit 40 to the D/A converter 89 and the recording head input 90 of the tape transport 34.

When one of the retroactive recording control buttons, START A, 16, or START B, 18, is pressed, the controller 50 starts the tape transport 34 via control line 56 as before. However, in contrast to recording present real time audio, the tape recorder begins recording past audio from memory, in delayed real time. The amount of recorded past audio depends on the particular start button pressed. For example, START A (corresponding to beginning recording at a prior time interval of T1, sets switch 54 to tap point T1. START B (corresponding to beginning recording at a prior time interval of T2), sets switch 54 set to tap point T2. In the general case, START N (corresponding to beginning recording at a prior or retroactive point in time TN) causes controller 50 to set switch 54 set to tap point TN.

Applicant argues that clearly, the above teaching of Sprague, requiring the usage of separate memories, each storing a recoverable portion of the recording, and the switch for switching between the memories for transfer to the permanent storage tape cannot read on the flag sets as claimed in applicant's invention.

Applicant's invention as claimed teaches an input is provided for flagging. That is, a user may mark a position in the endless recording for later reference. For example, if the user recognizes a musical number or an interview or the like, playing over the speakers from the radio, that the user would like to retain, the user may, by a special input, such as a button or a voice command, cause a flag to be placed in the recording. Such a marking makes it easier for the user to later go to the position in the recorded material where the desired material is located. In an alternative embodiment the radio has a second tape deck, and a user is enabled to select portions of a recorded tape and to transfer these portions to the second tape

(page 6, line 14 through to page 7, line 3).

Applicant believes claim 1 is patentable over the art of Sprague because Sprague clearly fails to teach or suggest setting flags as claimed, and argued above. Sprague cannot flag desired portions of the recording, only access 1, 3, or 5 minutes of prior recording to the present, or end of the stored recording. Claims 2-4 and 17 are patentable on their own merits, or at least as depended from a patentable claim.

Applicant's claim 18 is a method claim corresponding to patentable claim 1, and includes the limitations regarding flagging argued above on behalf of claim 1. Therefore, applicant believes that claim 18 is also patentable over the art of Sprague. Claims 19-22 are patentable on their own merits, or at least as depended from a patentable claim.

As all of the claims now standing for examination as argued have been shown to be patentable over the art of Sprague, the applicant respectfully requests the art of Sprague be withdrawn by the Examiner and that the present case be passed quickly to issue.

If there are any time extensions due beyond any extension requested and paid with this amendment, such extensions are hereby requested. If there are any fees due beyond any fees paid with the present amendment, such fees are authorized to be deducted from deposit account 50-0534.

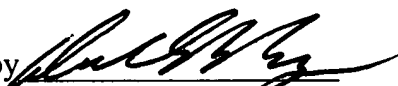
Versions With Markings to Show Changes Made

There are no amendments made in the present Amendment.

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Respectfully Submitted,

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